## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NORTHEASTERN DIVISION

UNIVERSAL LIFE CHURCH MONASTERY STOREHOUSE, ET AL.,	) )
Plaintiffs,	
v.	) No. 2:19-cv-00049
WAYNE NABORS, ET AL.,	) Chief Judge Waverly Crenshaw ) Magistrate Judge Alistair Newbern
Defendants.	)

## STATE DEFENDANTS' MOTION TO DISMISS SECOND AMENDED COMPLAINT

Pursuant to Fed. R. Civ. P. 12(b)(1) and this Court's August 18, 2020 Order, *see* Doc. 204, Defendants Herbert H. Slatery III, in his official capacity as Attorney General and Reporter for the State of Tennessee; Jennings H. Jones, in his official capacity as the District Attorney General for Rutherford County, Tennessee; Neal Pinkston, in his official capacity as the District Attorney General for Hamilton County, Tennessee; Bryant C. Dunaway, in his official capacity as the District Attorney General for Putnam County, Tennessee; Kim R. Helper, in her official capacity as the District Attorney General for Williamson County, Tennessee; and Bill Lee, in his official capacity as Governor of Tennessee (collectively the "State Defendants") respectfully move this Court to dismiss all claims against them raised by Plaintiffs in their Second Amended Complaint.

As more fully discussed in the accompanying Memorandum of Law, Plaintiffs' claims against the State Defendants are barred by the Eleventh Amendment because State Defendants lack any connection to the enforcement of the challenged act. That connection is required under *Ex Parte Young*, 209 U.S. 123 (1908), in any suit seeking injunctive relief against state officials in

their official capacities. Plaintiffs also lack standing to bring their constitutional claims because they have not alleged a cognizable injury in fact that would be redressed by the relief they seek. Moreover, this Court lacks subject matter jurisdiction over Plaintiffs' claims because they depend on a future contingency and are not ripe for adjudication at this time. Plaintiffs will suffer no hardship from delaying consideration of the issues they raise until a concrete controversy arises sufficient to satisfy the case or controversy requirement of Article III of the U.S. Constitution. In addition, the claims of Plaintiffs Gale Plumm and Timeaka Farris are moot. They are now married, and Chapter 415 of the 2019 Tennessee Public Acts removes any uncertainty about the status of that marriage. See 2019 Tenn. Pub. Acts, ch. 415, § 4; Tenn. Code Ann. § 36-3-301(a)(3). Accordingly, this Court lacks subject matter jurisdiction over Plaintiffs' claims against State Defendants in the Second Amended Complaint and must dismiss this action. Fed. R. Civ. P. 12(h)(3).

Respectfully submitted,

HERBERTH. SLATERY III Attorney General and Reporter

s/ Matthew D. Cloutier LESLIE ANN BRIDGES (BPR #11419) Senior Deputy of Public Protection Section and Counsel to the Attorney General STEVEN A. HART (BPR #7050) Special Counsel MATTHEW D. CLOUTIER (BPR#036710) Assistant Attorney General Post Office Box 20207 Nashville, Tennessee 37202-0207 Phone: (615) 741-7908

matt.cloutier@ag.tn.gov

## **CERTIFICATE OF SERVICE**

I hereby certify that on the 4th day of September 2020 I filed the foregoing electronically through the Court's CM/ECF System and thereby served the following:

Rocklan W. King III ADAMS & REESE LLP 424 Church Street, Suite 2700 Nashville, TN 37219 Phone: (615)259-1450 Fax: (615) 259-1470 rocky.king@arlaw.com

Lucian T. Pera ADAMS & REESE LLP 6075 Poplar Avenue, Suite 700 Memphis, TN 38119 Phone: (901) 524-5278 Fax: (901) 524-5378 lucian.peru@arlaw.com

Bruce E.H. Johnson Robert E. Miller DAVIS WRIGHT TREMAINE LLP 920 Fifth Avenue, Suite 3300 Seattle, WA 98104 Phone: (206) 622-3150 Fax: (206) 757-7700 brucejohnson@dwt.com ambikadoran@dwt.com

Attorneys for Plaintiffs

robertmiller@dwt.com.

Ambika K. Doran

Lisa M. Carson
Lee Ann Thompson
BUERGER, MOSELEY & CARSON, PLC
306 Public Square
Franklin, TN 37064
Phone: (615) 794-8850
lcarson@buergerlaw.com
lthompson@buergerlaw.com

Attorneys for Defendant Elaine Anderson

Mary Neill Southerland
Rheubin Taylor
Sharon McMullan Milling
HAMILTON COUNTY ATTORNEY
204 Courthouse, 625 Georgia Avenue
Chattanooga, TN 37402
Telephone: (423) 209-6150
neills@hamiltontn.gov
rtaylor@hamiltontn.gov
sharonm@hamiltontn.gov

Attorneys for Defendant William Knowles

Nicholas C. Christiansen
Daniel W. Ames
COPE, HUDSON, REED & McCREARY,
PLLC
16 Public Square North
Murfreesboro, TN 37133
Telephone: (615) 893-552
Fax: (615) 849-2135
nchristiansen@mborolaw.com
dames@mborolaw.com

Attorneys for Defendant Lisa Duke Crowell

Jeffrey G. Jones WIMBERLY, LAWSON, WRIGHT, DAVES, & JONES, PLLC P.O. Box 655 1420 Neal Street Cookeville, TN 38501 (931) 372-9123 jjones@wimberlylawson.com

Attorney for Defendant Wayne Nabors

s/ Matthew D. Cloutier

Matthew D. Cloutier